IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 33844 of 2007(D)

PETITIONER:

K.M.NASSARUDDIN, S/O. ABDUL MAJEED,
PALLIKKUNNEL HOUSE, HIGHWAY BYPASS ROAD,
NETTOOR, ERNAKULAM.

BY ADV. SRI.JOSE JOSEPH ARAYAKUNNEL
SRI.VARGHESE PARAMBIL
SRI.P.T.JOSE

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY**
   DISTRICT COLLECTOR, ERNAKULAM.

2. **TAHSILDAR (R.R.),**
   KANAYANNOOR TALUK, ERNAKULAM.

3. **THE ORIENTAL INSURANCE COMPANY LTD.,**
   COCHIN-24.

BY GOVT. PLEADER, SRI.I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 33844 OF 2007 D
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Dated this the 16th day of November, 2007

J U D G M E N T

The prayer in this writ petition is to call for the files leading to Exts. P4 and P4(a) notices issued under the Revenue Recovery Act and to examine the illegality and to quash the same.

2. Going by the pleadings, it is evident that revenue recovery proceedings have been initiated for realisation of the amounts consequent on the award passed by the Motor Accidents Claims Tribunal, Ernakulam in OP(MV) No.1818/99. In the said award, it was ordered that on deposit of the compensation, the Insurance Company will have the right to recover the awarded amount from respondents 1 and 2 therein. The petitioner is the 1st respondent in the said award. It is in pursuance to the liberty so given in the award that amount is sought to be recovered by the impugned notices.

3. Though the award has become final as between the parties, petitioner now submits that he is not liable to make good the amount ordered as per the award. According to him, the liberty of recovery was given in the award mentioned above based on a finding that the driver of the vehicle did not have a

valid licence. It is submitted that infact the driver had a valid licence and therefore, the very reasoning and the finding of the Tribunal is incorrect.

4. I am not in a position to appreciate this contention. So long as the finding rendered by the Tribunal in the award mentioned above has become final, it is not open to this court to sit in judgment of the same. Counsel for the writ petitioner relies on the judgment of the Apex Court reported in ***National Insurance Company Ltd. v. Swaran Singh and Others (AIR 2004 SC 1531)*** to contend that the burden is on the Insurance Company to prove that the driver did not have a valid licence. Even this contention cannot be accepted for the reason that there is an award between the parties and that award has become final.

5. In view of the fact that the award has become final as noted above, revenue recovery proceedings now initiated, cannot be said to be illegal for any reason.

I do not find any merit in this writ petition and it is dismissed.

ANTONY DOMINIC, JUDGE.

Rp